

CVC.25752

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**RICKY R. FOWLER,
Plaintiff,**

VS.

**FITNESS INTERNATIONAL, LLC
d/b/a LA FITNESS,
Defendant.**

CIVIL ACTION NO. 3:21-cv-778

DEFENDANT'S INDEX OF DOCUMENTS

The following Exhibits are relied upon and incorporated by reference in Defendant's

Notice of Removal:

- A. Civil Cover Sheet;
 - B. Supplemental Civil Cover Sheet;
 - C. Defendant's List of Attorneys Involved in the Case;
 - D. Defendant's Index of Documents;
 - 1. State Court Docket Sheet;
 - 2. Plaintiff's Original Petition, filed March 1, 2021;
 - 3. Citation and Return of Service; and
 - 4. Defendant's Original Answer.

Respectfully submitted,

**FLETCHER, FARLEY, SHIPMAN
& SALINAS, L.L.P.**

/s/ Jeffrey D. Smith _____

DOUGLAS D. FLETCHER

State Bar No. 07139500

Email: doug.fletcher@fletcherfarley.com

JEFFREY D. SMITH

State Bar No. 24063008

Email: jeffrey.smith@fletcherfarley.com

MATTHEW B. SKIDMORE

State Bar No. 24106941

Email: matthew.skidmore@fletcherfarley.com

9201 N. Central Expressway, Suite 600

Dallas, Texas 75231

(214) 987-9600 (office)

(214) 987-9866 (telecopier)

**ATTORNEYS FOR DEFENDANT
FITNESS INTERNATIONAL, LLC**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing instrument was electronically filed via the Court's CM/ECF system and a true and correct copy of same was delivered to all counsel of record in accordance with the FEDERAL RULES OF CIVIL PROCEDURE on this the 5th day of April, 2021.

/s/ Jeffrey D. Smith _____

JEFFREY D. SMITH

A

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

RICKY R. FOWLER

(b) County of Residence of First Listed Plaintiff Dallas County, Texas
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

I. Scott Lidji, The LIDJI Firm, 10440 N. Central Expwy., Ste. 1240, Dallas, Texas, 75231, 972-223-7455

DEFENDANTS

FITNESS INTERNATIONAL, LLC d/b/a LA FITNESS

County of Residence of First Listed Defendant Orange County, California
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Jeffrey D. Smith, Fletcher Farley Shipman & Salinas, LLP, 9201 N. Central Expwy., 6th Fl., Dallas, Texas, 75231, 214-987-9600

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question
(U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle	<input type="checkbox"/> 390 Other Product Liability		<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Defend Trade Secrets Act of 2016		<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 410 Fair Labor Standards Act		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 420 Labor/Management Relations		<input type="checkbox"/> 850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 710 Railway Labor Act	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 740 Family and Medical Leave Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other	IMMIGRATION	FEDERAL TAX SUITS
		<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
		<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 871 IRS—Third Party
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|--|--|--|---|--|--|---|
| <input type="checkbox"/> 1 Original Proceeding | <input checked="" type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|--|--|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §§ 1332, 1441, and 1446

Brief description of cause:

This lawsuit involves a controversy between citizens of different states. Defendant is a citizen of California.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/05/2021

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFF

JUDGE

MAG. JUDGE

B

**Supplemental Civil Cover Sheet for Cases Removed
From State Court**

This form must be attached to the Civil Cover Sheet at the time the case is filed in the U.S. District Clerk's Office. Additional sheets may be used as necessary.

1. State Court Information:

Please identify the court from which the case is being removed and specify the number assigned to the case in that court.

Court	Case Number
14th Judicial District Court, Dallas County, Texas	DC-21-02584

2. Style of the Case:

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code).

Party and Party Type	Attorney(s)
Plaintiff Ricky R. Fowler	I. Scott Lidji, State Bar No. 24000336, The LIDJI Firm, 10440 N. Central Expwy., Ste. 1240, Dallas, TX, 75231, 972-223-7455
Defendant Fitness International, LLC d/b/a LA Fitness	Jeffrey D. Smith, State Bar No. 24063008, Fletcher Farley Shipman & Salinas, LLP, 9201 N. Central Expwy., 6th Fl., Dallas, TX, 75231, 214-987-9600

3. Jury Demand:

Was a Jury Demand made in State Court? Yes No

If "Yes," by which party and on what date?

Plaintiff Ricky R. Fowler

Party

03/01/2021

Date

Supplemental Civil Cover Sheet

Page 2 of 2

4. Answer:Was an Answer made in State Court? Yes No

If "Yes," by which party and on what date?

Defendant Fitness International, LLC d/b/a LA Fitness
Party03/26/2021
Date**5. Unserved Parties:**

The following parties have not been served at the time this case was removed:

<u>Party</u>	<u>Reason(s) for No Service</u>
N/A	

6. Nonsuited, Dismissed or Terminated Parties:

Please indicate any changes from the style on the State Court papers and the reason for that change:

<u>Party</u>	<u>Reason</u>
N/A	

7. Claims of the Parties:

The filing party submits the following summary of the remaining claims of each party in this litigation:

<u>Party</u>	<u>Claim(s)</u>
Plaintiff	Plaintiff asserts a premises liability claim against Defendant for injuries allegedly sustained on July 27, 2020.

C

CVC.25752

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**RICKY R. FOWLER,
Plaintiff,**

VS.

**FITNESS INTERNATIONAL, LLC
d/b/a LA FITNESS,
Defendant.**

**DEFENDANT FITNESS INTERNATIONAL, LLC'S
LIST OF ATTORNEYS INVOLVED IN THE CASE**

Defendant **FITNESS INTERNATIONAL, LLC** (“Defendant”) files this List of Attorneys Involved in the Case.

Attorneys for Plaintiff Ricky R. Fowler

I. Scott Lidji
State Bar No. 24000336

scott@thelidjfirm.com
Mary Jo R. Betzen
State Bar No. 24089054
maryjo@thelidjfirm.com

THE LIDJI FIRM

Meadow Park Tower
10440 N. Central Expwy., Ste. 1240
Dallas, TX 75231
Phone: 800-BAD-PILL (972-223-7455)
Fax: 214-753-4751
Firm Email: legal@thelidjifirm.com

Attorneys for Defendant Fitness International, LLC d/b/a LA Fitness

Douglas D. Fletcher
State Bar No. 07139500
doug.fletcher@fletcherfarley.com

Jeffrey D. Smith
State Bar No. 24063008
jeffrey.smith@fletcherfarley.com

Matthew B. Skidmore
State Bar No. 24106941
matthew.skidmore@fletcherfarley.com

FLETCHER, FARLEY, SHIPMAN & SALINAS, L.L.P.
9201 N. Central Expressway, Suite 600
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Office: (214) 987-9600 (office)
Fax: (214) 987-9866

Respectfully submitted,

**FLETCHER, FARLEY, SHIPMAN
& SALINAS, L.L.P.**

/s/ Jeffrey D. Smith

DOUGLAS D. FLETCHER
State Bar No. 07139500
Email: doug.fletcher@fletcherfarley.com

JEFFREY D. SMITH
State Bar No. 24063008
Email: jeffrey.smith@fletcherfarley.com

MATTHEW B. SKIDMORE
State Bar No. 24106941
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9201 N. Central Expressway, Suite 600
Dallas, Texas 75231
Office: (214) 987-9600
Fax: (214) 987-9866

**ATTORNEYS FOR DEFENDANT
FITNESS INTERNATIONAL, LLC**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing instrument was electronically filed via the Court's CM/ECF system and a true and correct copy of same was delivered to all counsel of record in accordance with the FEDERAL RULES OF CIVIL PROCEDURE on this the 5th day of April, 2021.

/s/ Jeffrey D. Smith
JEFFREY D. SMITH

D

1

Case Information

DC-21-02584 | RICKY R FOWLER vs. FITNESS INTERNATIONAL, LLC

Case Number
DC-21-02584

Court
14th District Court

Judicial Officer
MOYE', ERIC

File Date
03/01/2021

Case Type
PROPERTY

Case Status
OPEN

Party

PLAINTIFF
FOWLER, RICKY R

Active Attorneys▼
Lead Attorney
LIDJI, I SCOTT
Retained

DEFENDANT
FITNESS INTERNATIONAL, LLC

Active Attorneys▼
Lead Attorney
SMITH, JEFFREY D
Retained

Address
REGISTERED AGENT CT CORPORATION
818 WEST 7TH STREET, SUITE 930
LOS ANGELES CA 90017

Events and Hearings

03/01/2021 NEW CASE FILED (OCA) - CIVIL

03/01/2021 ORIGINAL PETITION ▾

ORIGINAL PETITION

03/01/2021 ISSUE CITATION ▾

ISSUE CITATION - FITNESS INTERNATIONAL, LLC

03/03/2021 CITATION ▾

Served
03/08/2021

Anticipated Server
ESERVE

Actual Server Method

Actual Server

OUT OF STATE

Returned

03/11/2021

Comment

FITNESS INTERNATIONAL, LLC D/B/A LA FITNESS

03/11/2021 RETURN OF SERVICE ▾

CITATION WITH AFFIDAVIT OF SERVICE

Comment

AFFIDAVIT OF SERVICE-EXECUTED CITATION- FITNESS INTERNATIONAL LLC

03/26/2021 ORIGINAL ANSWER - GENERAL DENIAL ▾

DEF. FITNESS INTERNATIONAL, LLC D/B/A LA FITNESS' ORIG ANS

Financial

FOWLER, RICKY R

Total Financial Assessment	\$300.00		
Total Payments and Credits	\$300.00		
3/1/2021 Transaction Assessment	\$300.00		
3/1/2021 CREDIT CARD - TEXFILE (DC)	Receipt # 12141-2021-DCLK	FOWLER, RICKY R	(\$300.00)

Documents

ORIGINAL PETITION

ISSUE CITATION - FITNESS INTERNATIONAL, LLC

CITATION WITH AFFIDAVIT OF SERVICE

DEF. FITNESS INTERNATIONAL, LLC D/B/A LA FITNESS' ORIG ANS

2

DC-21-02584
CAUSE NO. _____**RICKY R. FOWLER****§ IN THE DISTRICT COURT****Plaintiff,****§****v.****§****FITNESS INTERNATIONAL, LLC
D/B/A LA FITNESS****§ DALLAS COUNTY, TEXAS****Defendant,****§ 14th****§ _____ JUDICIAL DISTRICT****PLAINTIFF'S ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff, RICKY R. FOWLER, complaining of Defendant, FITNESS INTERNATIONAL, LLC D/B/A LA FITNESS and for cause of action would show unto the Court the following:

**I.
PARTIES AND SERVICE****Plaintiff**

1. Plaintiff, RICKY R. FOWLER is a resident of Dallas, Texas.

Defendant

1.1 Defendant, FITNESS INTERNATIONAL, LLC D/B/A LA FITNESS is a corporation authorized to conduct business in the State of Texas and may be served with process by serving its registered agent: CT CORPORATION, 818 West Seventh Street, Suite 930, Los Angeles, California, 90017.

SERVICE OF THIS DEFENDANTS IS REQUESTED AT THIS TIME**II.
JURISDICTION AND VENUE**

2.1 This Court has jurisdiction over the Defendant as it conducts business in the State of Texas and the amount in controversy exceeds the minimum jurisdictional limit of this Court. Venue is proper in Dallas County, Texas under the Texas Civil Practices and Remedies Code §15.002 as FITNESS INTERNATIONAL, LLC D/B/A LA FITNESS has numerous locations throughout the Dallas County, Texas area.

III.
FACTS

3.1 On July 27, 2020, RICKY R. FOWLER was a business invitee of FITNESS INTERNATIONAL, LLC D/B/A LA FITNESS, located at 4540 W. Mockingbird Lane, Dallas, Texas 75209.

3.2 On July 27, 2020, the Plaintiff, a member of Defendant's establishment was working out on the "stationary bike" when the stationary bike, which was not secured to the ground, fell and the Plaintiff was thrown into the air and when he landed, sustained severe injuries. FITNESS INTERNATIONAL, LLC D/B/A LA FITNESS has refused to investigate and process Plaintiff's claim, forcing Plaintiff to file suit to protect her rights.

3.3 As a result of the Defendant's negligent conduct as well as failing to maintain safe and secure workout equipment that is anchored to the floor resulted in Plaintiff's injury. Defendant was in complete control of the flooring in question.

3.4 Consequently, Plaintiff suffered serious bodily injury as a result of the improperly installed and improperly secured "stationary bike" in question which was proximately caused by the dangerous condition of the unsafe and wet floors.

3.5 The Defendant was negligent in its supervision and training of the employee(s) who was responsible for installing, maintaining and inspecting the gym equipment to ensure it is safe to

operate.

IV.
PREMISES LIABILITY

- 4.1 Plaintiff was a business invitee on the premises in question.
- 4.2 FITNESS INTERNATIONAL, LLC D/B/A LA FITNESS is the owner of the property and stationary bike in question where the incident which forms the basis of this lawsuit occurred.
- 4.3 The condition of the improperly anchored stationary bike created a dangerous condition on said premises.
- 4.4 Defendant knew or reasonably should have known that not anchoring a stationary bike creates a dangerous condition on said premises.
- 4.5 Defendant owed a duty to Plaintiff as a business invitee to warn of said dangerous condition and to make the dangerous condition safe. Defendant breached this duty by failing to warn and failing to make safe this dangerous condition.
- 4.6 Said breach of duty by Defendant proximately caused the Plaintiff's injuries complained of herein.

V.
DAMAGES OF PLAINTIFF

- 5.1 As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff was injured. Plaintiff demands compensation for the following damages.
 1. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services;

2. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
3. Physical pain and suffering and mental anguish in the past;
4. Physical pain and suffering and mental anguish which, in all reasonable probability, will be suffered in the future;
5. Physical impairment;
6. Physical disfigurement;
7. Loss of earning capacity in the past and future;
8. Loss of household services;
9. By reason of all of the above, Plaintiff, has suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought.

VI.

PLAINTIFF'S DAMAGES - RULE 47

6.1. Plaintiff refers to all the preceding and subsequent pleadings in this petition and incorporated herein by this reference for all purposes.

6.1. Pursuant to the provisions of Rule 47 of the Texas Rules of Civil Procedure, Plaintiff alleges that the damages sought by Plaintiff are within the jurisdictional limits of the Court and Plaintiff seeks monetary relief over \$250,000.00 and less than \$1,000,000.00. Plaintiff further alleges that any award for damages is ultimately left to the purview of the jury. Therefore, Plaintiff seeks judgment for all other relief to which Plaintiff may be entitled.

6.3 As a direct and proximate result of the wrongful conduct of Defendant, as alleged herein, Plaintiff has sustained both property damages as well as medical injuries, including past and future pain and suffering, past and future lost wages, and economic damages.

VII.
REQUEST FOR DISCLOSURE

7.1 Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff requests Defendant to disclose within fifty (50) days of service of this request, the information and material described in Rule 194. Plaintiff further requests that the responding parties produce the responsive documents at The LIDJI Firm in fifty (50) days of service of this request. This Request was initially served on Defendant with Plaintiff's Original Petition.

VIII.
JURY DEMAND

8.1 Plaintiff requests a trial by jury in this matter.

IX.
DOCUMENTS TO BE USED

9.1 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff intends to use all documents exchanged and/or produced between, by, or among any parties in this matter, including but not limited to, correspondence, discovery responses, and records (obtained via depositions upon written questions, by subpoena, by affidavit, or otherwise), during the trial of the above-entitled and numbered cause. Moreover, Defendant is put on notice not to destroy any evidence, including, but not limited to reports, files, inter-office emails, intra-office emails, emails from the store from the corporate office, and/or any communication whatsoever related to the defective gas nozzle that resulted in the Plaintiff's incident on July 27, 2020. Furthermore, this notice includes preserving any and all videotape surveillance of the incident in question as well as any evidence related to the relocation of the fall in question.

X.
PRAYER

WHEREFORE PREMISES CONSIDERED, Plaintiff asks that the Court issue citation for

Defendant to appear and answer, and that Plaintiff be awarded a judgment against Defendant for the following:

- a. Judgment against Defendant for damages as pled or otherwise, both general and special;
- b. Pre-judgment and post-judgment legal interest as provided by law;
- c. Past and future reasonable medical expenses;
- d. Past and future pain and suffering and mental anguish;
- e. Past and future physical impairment;
- f. Past and future physical disfigurement;
- g. Past and future lost wages and earning capacity;
- h. Costs of court; and
- i. Such other and further relief, both general and special, at law or in equity, to which Plaintiff may show himself justly entitled.

Respectfully submitted,

The LIDJI Firm

/s/ I. Scott Lidji
I. SCOTT LIDJI
Texas Bar No. 24000336
scott@thelidjifirm.com
MARY JO R. BETZEN
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Dallas, Texas 75231
legal@thelidjifirm.com
Toll Tel: (800) BAD-PILL

Toll Fax: (844) BAD-PILL
(Tel) (972) BAD-PILL; (972) 223-7455
(Fax) (214) 753-4751
Website: BADPILL.COM
ATTORNEYS FOR PLAINTIFF

3

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**To: FITNESS INTERNATIONAL, LLC D/B/A LA FITNESS
BY SERVING REGISTERED AGENT, CT CORPORATION
318 WEST 7TH STREET SUITE 930
LOS ANGELES CALIFORNIA 90017**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org. Your answer should be addressed to the clerk of the 14th District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **RICKY R FOWLER**

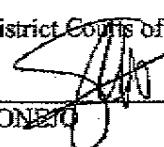
Filed in said Court 1st day of March, 2021 against

FITNESS INTERNATIONAL, LLC

For Suit, said suit being numbered **DC-21-02584**, the nature of which demand is as follows:
Suit on PROPERTY etc. as shown on said petition & REQUEST FOR DISCLOSURE,
a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 3rd day of March, 2021.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By , Deputy

ANGELA CONEJO



SERVICE RETURN ATTACHED

**AUSTIN PROCESS, LLC
809 NUECES
AUSTIN, TX 78701**

E SERVE
CITATION
DC-21-02584
RICKY R FOWLER
vs.
FITNESS INTERNATIONAL, LLC
ISSUED THIS
3rd day of March, 2021
FELICIA PITRE
Clerk District Courts,
Dallas County, Texas
By: ANGELA CONEJO, Deputy
Attorney for Plaintiff
I SCOTT LIDJI
THE LIDJI FIRM
10440 N CENTRAL EXPY, STE 1240
DALLAS TEXAS 75231
972-223-7455
scott@thelidjifirm.com
LEGAL@thelidjifirm.com
DALLAS COUNTY
SERVICE FEES
NOT PAID

OFFICER'S RETURN

Case No.: DC-21-02584

Court No. 14th District Court

Style: RICKY R. FOWLER

vs.

FITNESS INTERNATIONAL, LLC

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____. M. Executed at _____, within the County of _____ at _____ o'clock _____. M. on the _____ day of _____, 20_____, by delivering to the within named _____.

each in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ _____	_____
For mileage	\$ _____	of _____ County, _____
For Notary	\$ _____	By _____ Deputy _____

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20_____, to certify which witness my hand and seal of office.

Notary Public _____ County _____

SERVICE RETURN ATTACHED

AUSTIN PROCESS, LLC
809 NUECES
AUSTIN, TX 78701

AFFIDAVIT OF SERVICE

State of Texas

County of Dallas

134th Judicial District Court

Case Number: DC-21-02584

Plaintiff:

Ricky R. Fowler

vs.

Defendant:

Fitness International, LLC D/B/A LA Fitness

For: The LIDJI Firm

Received by Austin Process LLC on the 5th day of March, 2021 at 2:03 pm to be served on **Fitness International, LLC D/B/A LA Fitness** By serving Registered Agent, **CT Corporation, 818 West 7th Street, Suite 930, Los Angeles, Los Angeles County, CA 90017**, I, Tamar David, being duly sworn, depose and say that on the 7th day of March, 2021 at 1:39 p.m., executed service by delivering a true copy of the **Citation, Plaintiff's Original Petition and Request for Disclosure** in accordance with state statutes in the manner marked below:

() PUBLIC AGENCY: By serving _____ as _____ of the within-named agency at _____.

() SUBSTITUTE SERVICE: By serving _____ as _____ at _____.

() CORPORATE SERVICE: By serving Gabriella Sanchez as Authorized Agent at 818 West Seventh Street #1930 Los Angeles.

() OTHER SERVICE: As described in the Comments below by serving _____ as _____ at _____ CA 90017

() NON SERVICE: For the reason detailed in the Comments below.

COMMENTS: _____

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Tamar David

My name is Tamar David, my date of birth is 05/15/1974 and my address is 3627 Clinton Ave. #1203 Los Angeles CA 90034 (County). I declare under penalty of perjury that the above is true and correct. Executed in, Los Angeles County, State of California, on the 9th day of March, 2021.

Tamar David

Declarant

PROCESS SERVER # 5962
Appointed in accordance with State Statutes

Austin Process LLC
809 Nueces
Austin, TX 78701
(512) 480-8071

Our Job Serial Number: 2021001544
Ref: Fowler v. Fitness International, LLC

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CVC.25752

CAUSE NO. DC-21-02584

CAROLYN SELLERS D

**RICKY R. FOWLER,
Plaintiffs,**

V.

**FITNESS INTERNATIONAL, LLC
d/b/a LA FITNESS,
Defendant.**

IN THE DISTRICT COURT

14TH JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER

COMES NOW FITNESS INTERNATIONAL, LLC d/b/a LA Fitness, Defendant in the above entitled and numbered cause, and files this its Original Answer and for same would respectfully show unto the Court as follows:

I. General Denial

Defendant denies, each and every, all and singular, the material allegations contained within Plaintiff's pleadings and demands strict proof thereof.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing by this suit, that Defendant be awarded its costs, and for such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.

Respectfully submitted,

**FLETCHER, FARLEY, SHIPMAN
& SALINAS, L.L.P.**

/s/ Jeffrey D. Smith _____

DOUGLAS D. FLETCHER

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**ATTORNEYS FOR DEFENDANT
FITNESS INTERNATIONAL, LLC**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been mailed, telecopied, electronically served or hand delivered to all attorneys of record, in compliance with Rule 21a. of the Texas Rules of Civil Procedure, on this the 26th day of March, 2021.

/s/ Jeffrey D. Smith _____

JEFFREY D. SMITH

Automated Certificate of eService

This automated certificate of service was created by the efilng system. The filer served this document via email generated by the efilng system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Gloria Hernandez on behalf of Jeffrey Smith
Bar No. 24063008
gloria.hernandez@fletcherfarley.com
Envelope ID: 51864936
Status as of 3/26/2021 10:43 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Legal Lidji		legal@thelidjifirm.com	3/26/2021 10:38:35 AM	SENT
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Gloria Hernandez		gloria.hernandez@fletcherfarley.com	3/26/2021 10:38:35 AM	SENT